

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

EDDIE EUSTICE, DTX028,

Plaintiff,

v.

ENRIQUE COLIN, Public Defender,

Defendant(s).

Case No. [23-cv-00846-CRB](#) (PR)

ORDER OF DISMISSAL

Plaintiff, a pretrial detainee at the Santa Clara County Jail facing state criminal proceedings in Santa Clara County Superior Court, has filed a pro se complaint under 42 U.S.C. § 1983 alleging that his appointed public defender is incompetent. Plaintiff specifically takes issue with his public defender's decision to pursue plaintiff's mental competency to stand trial rather than obtain video evidence exonerating plaintiff. Plaintiff seeks \$1,000,000 in damages.

DISCUSSION

A. Standard of Review

Federal courts must engage in a preliminary screening of cases in which prisoners seek redress from a governmental entity or officer or employee of a governmental entity. 28 U.S.C. § 1915A(a). The court must identify cognizable claims or dismiss the complaint, or any portion of the complaint, if the complaint "is frivolous, malicious, or fails to state a claim upon which relief may be granted," or "seeks monetary relief from a defendant who is immune from such relief." Id. § 1915A(b). Pro se pleadings must be liberally construed, however. Balistreri v. Pacifica Police Dep't, 901 F.2d 696, 699 (9th Cir. 1990).

To state a claim under 42 U.S.C. § 1983, a plaintiff must allege two elements: (1) that a right secured by the Constitution or laws of the United States was violated, and (2) that the alleged violation was committed by a person acting under the color of state law. West v. Atkins, 487 U.S. 42, 48 (1988).

1 B. Legal Claims

2 It is well established that a public defender does not act under the color of state law, an
3 essential element of an action under § 1983, when performing a lawyer's traditional functions,
4 such as entering pleas, making motions, objecting at trial, cross-examining witnesses, and making
5 closing arguments. See Polk County v. Dodson, 454 U.S. 312, 318-19 (1981). It matters not that
6 the public defender failed to exercise independent judgment or that he was employed by a public
7 agency; it is the nature and context of the function performed by the public defender that is
8 determinative under Polk County. See Miranda v. Clark County, Nevada, 319 F.3d 465, 468 (9th
9 Cir. 2003) (en banc).

10 Plaintiff's dissatisfaction with his public defender's defense of plaintiff is regrettable but
11 not actionable under § 1983. See Polk County, 545 U.S. at 318-19; Miranda, 319 F.3d at 468.
12 The relief plaintiff seeks must be sought in the state courts via a malpractice action, if at all.

13 **CONCLUSION**

14 For the foregoing reasons, the complaint is DISMISSED under 28 U.S.C. § 1915A(b) for
15 failure to state a claim upon which relief may be granted.

16 **IT IS SO ORDERED.**

17 Dated: March 3, 2023



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19 CHARLES R. BREYER
United States District Judge